

NORTH AMERICA PHOTON INFOTECH, LTD.,

SOUTHERN DISTRICT OF NEW YORK

NORTH AMERICA PHOTON INFOTECH, LTD.,

Plaintiff,

Plaintiff,

-V-

ZOOMINFO LLC,

Defendant.

20 Civ. 2180 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

JOHN P. CRONAN, United States District Judge:

This morning, the Court held a final pretrial conference in this case to discuss logistics for the bench trial scheduled to begin on Friday, June 24, 2022. This Order memorializes those trial logistics.

Trial will commence at 10:30 a.m. on June 24, 2022 in Courtroom 12D of the Daniel P. Moynihan United States Courthouse, New York, NY. The parties have agreed that opening statements are not necessary. Defendant ZoomInfo, LLC (“ZoomInfo”), as the party with the burden of proof, will present its evidence first, and will call Samantha Montgomery as a live, in-person witness for cross-examination and any re-direct examination. ZoomInfo previously submitted an affidavit with Ms. Montgomery’s direct examination. *See* Dkt. 137-1. Because Plaintiff North America Photon Infotech Ltd. (“Photon”) does not intend to cross-examine ZoomInfo’s other witness, Josh Simon, the Court excuses Mr. Simon from testifying in-person at trial and will rely solely on the affidavit that ZoomInfo submitted for him. *See* Dkt. 137-2.

Photon intends to offer live testimony of two witnesses, Sanjiv Lochan and Michael Levine, for cross-examination and any re-direct examination. Photon previously submitted affidavits setting out both witnesses' direct testimony. *See* Dkts. 145-1, 145-2. Mr. Lochan will

testify remotely by video, while Mr. Levine will testify in person. The Court will reserve ruling on ZoomInfo's pending motion *in limine* to preclude Mr. Lochan's testimony, *see* Dkts. 157-158, as well as any other pending issues relating to *in limine* motions, until it issues its decision on damages.


In lieu of closing arguments, each party shall file a post-trial submission with respect to the calculation of damages by July 1, 2022. Those submissions shall set forth the rationale and basis for the proposed calculations, and shall not exceed ten pages.

As previously indicated in the Court's Opinion on summary judgment, *see* Dkt. 121 at 17 n.10, the June 24 bench trial will not address the issue of attorneys' fees, which will be briefed after the Court rules on damages arising from Photon's breach of contract.

If either party has any objection to these procedures, they shall submit such objection no later than the end of the day on June 22, 2022.

SO ORDERED.

Dated: June 21, 2022
New York, New York



JOHN P. CRONAN
United States District Judge